

REPORT

DATE: May 8, 2008

TO: Community, Economic & Human Development Committee

FROM: Jeffrey S. Dunn, Government Affairs Analyst, Ext. 880, dunn@scag.ca.gov
Jacob Lieb, Program Manager, Ext. 921, lieb@scag.ca.gov

SUBJECT: Summary and Status of SB 375

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION:

Review summary of SB 375 and provide direction and guidance to staff on further actions if any.

BACKGROUND:

SB 375 was introduced in 2007 primarily as a CEQA streamlining measure, but through a series of amendments has become an implementation bill for AB 32 (Nunez), the Global Warming Solutions Act of 2006 which tasks the California Air Resources Board (CARB) with the job of developing a plan to establish a regulatory and market strategy to achieve reductions in greenhouse gas (GHG) emissions to 1990 levels by 2020.

SB 375 would require the CARB to establish regional targets specifically for the reduction of GHG emissions from light trucks and automobiles estimated to contribute 30 percent of all GHG emissions. These targets would be established in consultation with regional transportation planning agencies. The bill creates a mandatory planning process for regional transportation planning agencies. While there are no direct or explicit requirements at the local level, some indirect consequences are possible.

Growth Component of SB 375

SB 375 would rely on long-range transportation plans to meet targets for reducing greenhouse gas (GHG) emissions from the automobile and light truck transportation sector. Specifically the bill would require that regional transportation plans for certain regions include a sustainable communities strategy (SCS) to achieve these reductions. Regions would be required to follow specific provisions—very similar to regional blueprint processes—to determine both areas of preferred growth and protected significant resource areas and significant farmland following smart growth patterns. The primary goal being the reduction of vehicle miles traveled by providing housing choices and development that is in close proximity to transportation choices.

The bill specifically requires that the strategy within the RTP identify sufficient areas for growth to house all economic segments of the population and employment growth over the course of the planning period. The bill contains priorities for establishing these growth areas, with housing and job growth areas initially designated as follows:

- Infill and redevelopment in existing urbanized areas and any areas within spheres of influence as of July 1, 2007, and
- Vacant or substantially undeveloped areas adjacent to an existing or reasonably foreseeable planned development area, excluding significant resource or significant farmlands.

If it is not feasible to accommodate growth in the areas identified above then the following areas would be available, but would require identification of mitigation measures by the regional transportation planning agency:

- Vacant lands or substantially undeveloped lands adjacent to an existing or reasonably foreseeable planned development or land within a city sphere of influence that is subject to conservation or agricultural easements, under Williamson Act contract, open space, or land for endangered species;
- Vacant lands or substantially undeveloped lands adjacent to an existing or reasonably foreseeable planned development or land within a city sphere of influence that is habitat for candidate, fully protected, sensitive, or species of special status as specified, and;
- Other areas except publicly owned parks and open space and habitat areas protected by natural community conservation plans.

Thus, the SCS sets out a specific growth planning approach to establishing preferred growth areas, as well as areas for protection within a region. While SB 375 does not stop growth outside of the preferred growth areas identified in the SCS, this growth element of the RTP assists regional agencies in targeting transportation investments.

Local Government Stakeholder Negotiations Over Growth Component

The League of California Cities, California State Association of Counties, and other local government representatives have maintained on-going discussions with the bill's sponsor to clarify and resolve issues concerning the GHG emissions reductions requirements and the land-use provisions of SB 375. The following proposals have been offered by local government in various forms and have received favorable response from the sponsor. Discussions on these and other proposals are ongoing:

1. Regional targets for cars/light trucks to reduce GHG emissions:

- Assure that in assigning targets, CARB must first consider reductions that can be made from more traditional emissions control mechanisms, such as improved fuel efficiency and use of low carbon fuels
- Make sure that the process for establishing these targets will be consistent with other CARB work under AB 32.

2. SCS: Prioritizing Areas For Growth:

- Clarify that land designated for growth and development with HCPs or NCCPs may also be designated as first level priority growth areas:

- Clarify that land within sphere adjacent to existing or reasonably foreseeable planned development that does not have significant resource areas is included within initial feasibility area;
- Assure that mitigation efforts are focused on the GHG purposes of the bill.

NOTE: There have been numerous proposals by local government to add alternative processes, in lieu of the SCS, for regions that engage a regional process that develops a regional plan for resource protection. These proposals have been rejected by the sponsor thus far.

3. Process to Adopt SCS:

- Before developing the first draft of SCS, RTPA must hold a workshop in each county for local officials; and after developing draft hold a public hearing in each county. Final draft shall include a section that responds to comments;
- Final SCS may be adopted 90 days after adoption of final draft. Where each city and county is not specifically represented on RTPA board, SCS may be rejected if a majority of cities and counties in region representing a majority of the population of the region file a written statement objecting to the adoption of SCS.
- Allow for county or subregional level preparation of the SCS. Language has been proposed that would allow for subregional entities or counties together with cities within the county to prepare the SCS. This provision, as currently, discussed is limited to the SCAG region, and needs clarification as to how it would be implemented.

Grandfathering of Transportation “Pipeline” Projects

Local transportation commissions have expressed significant concerns with the bill on various issues, including the possibility of being held prospectively accountable statutorily to emissions reductions guidelines that have not yet been developed. Additionally, commissions are concerned with exempting pipeline projects, particularly those whose funding has been approved by voters through passage of local sales tax measures. The current version of SB 375 includes a consistency requirement for transportation projects, and reads,

‘Projects programmed for funding on or before December 31, 2011, are not required to be consistent with the sustainable communities strategy if they (i) are contained in 2007 or 2009 Federal Statewide Transportation Improvement Program, (ii) are funded pursuant to Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2, or (iii) were specifically listed in a ballot measure prior to December 31, 2006, approving a sales tax increase for transportation projects.’

All participants in the statewide negotiations have had difficulty in crafting language that would protect or exempt existing projects or funding streams. SCAG staff participating in statewide negotiations have recognized the particular difficulty and importance of this issue, but have not been able to advocate any specific solution due to the lack of an agreed upon approach among county transportation commissions in the SCAG region.

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RHNA

The only change in SB 375 to ensure consistency between the SCS identification of areas for housing growth and the allocation of RHNA is to require a region's housing need to reflect a feasible balance between jobs and housing, using the employment projections in the RTP. The timing for housing element revisions and RTPs remain out of synchronization as well, creating difficulties in aligning the planning processes and assumptions. Local government is proposing language to sync the RHNA process with the planning process, though this has not yet been accepted by the bill's sponsor.

CEQA

The bill contains CEQA provisions that are intended to serve as an incentive for local agencies to amend their General Plans consistent with the region's Sustainable Communities Strategy. These provisions would allow that certain types of development projects subject to CEQA could move forward with a streamlined CEQA review. While there is some question as to whether these provisions would in fact provide a tangible incentive in many circumstances, no parties have raised specific objections to this portion of the bill, and there are not active negotiations.

Sustainable Communities Supplement

The bill allows that in cases where the mandated RTP cannot meet the target established for Greenhouse Gases, that the RTPA would prepare a Supplement to the Strategy that would identify measures that would allow the target to be met. This Supplement would be separate from the RTP and would consist of policies outside of the direct authority of the regional agency. As such, there is little objection or on-going discussion regarding the inclusion of the Supplement as a provision of the bill.

On-going Issues and Negotiations

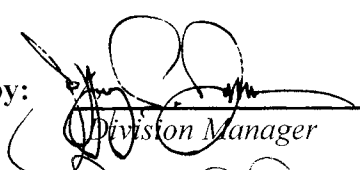
The bill's sponsor and local government entities are engaged in continuing discussions to reach agreement issues a number of issues upon which the parties' are still somewhat far apart, including land-use/SCS, GHG emissions reductions, transportation project consistency, RHNA, and others. Accordingly, the author states his intention not to move the bill prior to May, and possibly later in the summer. SCAG staff is participating in these discussions to provide factual input as well as its best faith effort to explain likely implementation processes or procedures made by SCAG should the bill's provisions become law.

FISCAL IMPACT:

There is no fiscal impact.

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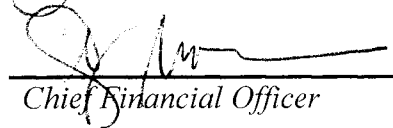
Reviewed by:


Division Manager

Reviewed by:


Department Director

Reviewed by:


Chief Financial Officer